

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1 - 4 are pending in the application, with claims 1 and 3 being the independent claims. Claim 2 has been amended; support for this amendment is found at pages 16-19 of the specification and in FIG. 5, among other places. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above Amendment and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 1 and 2, arguing that they are anticipated by U.S. Patent No. 5,777,761 ("Fee"). In particular, with respect to claim 1 the Examiner argues that Fee discloses an optical transmission unit internal defect avoidance unit which executes avoidance of defects within the optical transmission unit. Because this feature of claim 1 is written in means plus function language, claim 1 must necessarily be interpreted under 35 USC § 112, paragraph 6. This paragraph states that such a claim "shall be construed to cover the corresponding structure, materials, or acts described in the specification and equivalents thereof."

The specification describes several embodiments that include structure corresponding to internal defects avoidance means in an optical transmission unit. In one embodiment, for example,

in the event of a failed optical channel card, signals that would ordinarily be transmitted through the failed card are re-routed to existing cards that have excess capacity. These re-routed signals are then transmitted using these under-capacity cards, over the wavelengths associated with these cards. This is described in the specification, pages 33 – 35, and Figure 10. In another embodiment, an auxiliary optical channel card is provided, having its own assigned wavelength. In the event of a failed optical channel card, signals that would otherwise be transmitted to the failed card are instead routed through the auxiliary card, which transmit the signals using its own assigned wavelength.

Neither of these structures is described anywhere in the Fee reference. On the contrary, Fee describes a mechanism in which, if an optical transmitter fails, electrical signals are re-routed from the failed transmitter to a spare transmitter. The spare transmitter is then tuned to the wavelength corresponding to the failed optical transmitter. (Fee, column 6, lines 21-32). Fee therefore does not disclose the re-routing of signals from a failed optical channel card to an existing optical channel card, such that the wavelength of the existing card is used for those signals. Nor does Fee disclose switching signals to an auxiliary optical channel card and transmitting the signals on the wavelength of that auxiliary optical channel card. Therefore, claim 1, as interpreted under 35 USC § 112, is not anticipated by the Fee reference.

Because claim 2 depends from claim 1, the features of claim 1 are necessarily incorporated into any interpretation of claim 2. Because not all features of claim 1 are anticipated by Fee, not all features of claim 2 are anticipated by Fee. Hence, Fee fails to anticipate claim 2. Moreover, Fee fails to disclose the defect detection means referenced in claim 2 as amended. Such detection means

can include, for example, the processing of evaluation signals described on pages 16-19 of the specification and in FIG. 5.

Rejections under 35 U.S.C. § 103

With respect to claim 3, the Examiner argues that this claim is obvious over the Fee reference in view of U.S. Patent 5,150,246 ("Suzuki"). In particular, the Examiner argues that Suzuki discloses an external central operations system for managing failed components. Claim 3, however, states that defect information is sent to an external maintenance member management terminal which performs management of maintenance members, supply processing, or similar functions. While Suzuki may discuss the receipt of fault information at a central operations system, Suzuki does not disclose or suggest a response by such an operation system. Such response is a feature of claim 3. The external maintenance member management terminal performs management of maintenance members, supply processing, or similar functions. Such response to failure information is not disclosed or suggested by Suzuki or by Fee. Claim 3, therefore, is not rendered obvious by any reasonable combination of Fee and Suzuki.

Likewise, this feature of claim 3 is necessarily incorporated into dependent claim 4. Because this feature is not disclosed by any reasonable combination of Fee and Suzuki, claim 4 is likewise not rendered obvious by Fee and Suzuki.

Applicants: SUZUKI et al.
Application No. 09/825,061

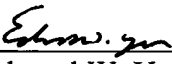
Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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